

REMARKS

Claims 1, 7 and 13 have been amended and claims 2, 4, 8, 10, 14 and 16 have been cancelled. Reconsideration of the rejection is respectfully requested in view of these amendments.

The claims were rejected under 35 USC 112 for various informalities. These informalities have been corrected.

Likewise the claims have been rejected under 35 USC 101, for the claims failing to claim subject matter within the technological arts, and failing to perform a concrete or useful or tangible result. The claims have been amended to add computer operations to method claims 1-6 and to include the operation of sending the electronic order form to the convenience store distributor. These amendments thus obviate this rejection.

Claims 1-18 were rejected by the examiner under the judicially created doctrine of obvious type double patenting. As none of these applications have yet been passed to issue, this rejection is premature under the MPEP. Applicants will submit a terminal disclaimer for any such obvious type claimed subject matter as appropriate after one of the listed applications has issued. Applicants appreciate the examiner raising this issue, and it will be dealt with as required by the PTO practice.

The independent claims have been amended to be restricted to a supply chain system computer receiving data from a plurality of independent convenience store outlets of a convenience store supply chain utilizing a network, the data relating to the sale of convenience store products or services by the convenience store outlets, and wherein the data is provided by the plurality of convenience store outlets at the sole discretion of the respective convenience store outlet; the supply chain system computer parsing the data to match it to a plurality of convenience store distributors and convenience store suppliers; the supply chain system computer generating an electronic order form based on the data for ordering convenience store products or services from a convenience store distributor of the convenience store supply chain; the supply chain system computer transmitting the data to the convenience store distributor of the convenience store supply chain utilizing the network; the supply chain system computer transmitting the data to a convenience store supplier of the convenience store supply chain utilizing the network; the supply chain system computer

forecasting aggregated activity in the convenience store supply chain utilizing the data; sending the electronic order form to the convenience store distributor; and the supply chain system computer providing access to the forecast to the convenience store distributor and the convenience store supplier only after identity verification. These amendments focus on the fact that each of the recited plurality of convenience stores is independent from the others and is using an independent supply chain system to provide its convenience store supplies. In such a scenario, the convenience store has no obligation to provide its sales data, i.e., such provision is voluntary. Likewise, the distributors and suppliers are independent. Thus, none of these supply chain participants has the ability to get the data necessary in real time, and aggregate that data to generate orders for resupply. Moreover, this independence removes the ability to do demand forecasting at the distributor and supplier supply chain levels. Additionally, this situation is in the context of perishable food items and minimal ability to store such perishable food inventory, coupled with a need for constant real time resupply to individual independent convenience stores.

Claims 1-18 were rejected under both 35 USC 102 and 35 USC 103 over the reference Noori. These rejections are respectfully traversed to the extent they are applied to the amended claims. Noori discloses downstream materials management and distribution for retailers, wholesalers and distributors, but in the specific context of single control operations such as Walmart stores, or Sears stores, or K-Mart stores. There is no disclosure of the problems engendered with the stores are independent. Moreover, there is no disclosure in Noori of restricting access to data based on identity verification.

The office action states that multiple missing elements in combination are obvious design choices to one of ordinary skill in the art at the time of the invention, based on the examiner's official notice. It is requested that if this position is maintained with respect to the amended claims, that it be substantiated with prior art references, per MPEP 2144.03 and that a suggestion in the prior art be pointed out for a motivation to combine each of these elements with the base Noori reference to realize the claimed combination. In view of the fact that multiple elements are missing from the Noori reference, such proof is essential to nullify the potential that applicants' specification is being used as a blueprint for such a combination.

In view of the foregoing amendments and remarks, reconsideration and early passage to issue of this application is respectfully requested.

This amendment changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date January 27 2004

FOLEY & LARDNER

Customer Number: 22428

Telephone: (202) 672-5485

Facsimile: (202) 672-5399

By Thomas S. Ellis Reg. No. 43,408

W William T. Ellis
Attorney for Applicant
Registration No. 26,874